

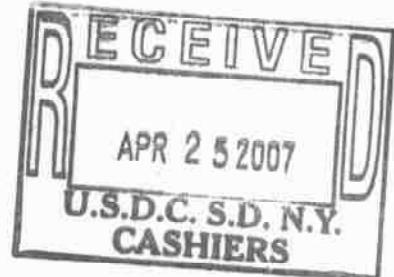
**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

Aleksandr G. Zaslavskiy (A71-077-361))
)
Plaintiff,)
)
v.)
)
)
)
)
ALBERTO GONZALES, Attorney General)
of the United States;)
MICHAEL CHERTOFF, Secretary,)
Department of Homeland Security;)
EMILIO GONZALES, Director,)
U.S. Citizenship and)
Immigration Services;)
ANDREA QUARANTILLO, Director,)
NY District, Citizenship and)
Immigration Services;)
)
Defendants.)
)

JUDGE BAER

COMPLAINT FOR
WRIT OF
MANDAMUS

07 No.: **CV** **3298**



COMPLAINT FOR WRIT OF MANDAMUS

Plaintiff, Aleksandr Grigoryevich Zaslavskiy, through undersigned counsel, alleges as follows:

INTRODUCTION & JURISDICTION

1. This is a civil action brought pursuant to 8 U.S.C. § 1447, 28 U.S.C. §1331 and 1361, 5 U.S.C. §§ 701, 706, 555, and 28 U.S.C. §2201 *et. seq.* to redress the deprivation of rights, privileges and immunities secured to Plaintiff to compel Defendants to perform a duty Defendants owed to Plaintiff. Jurisdiction is also conferred by 5 U.S.C. §704.

2. This action is brought to compel Defendants and those acting under them to take action on a Form N-400, Application for Naturalization, (hereafter "the Application") in order for Plaintiff to become a Naturalized Citizen of the United States. Mr. Zaslavskiy filed the Application with the New York District Office of the Citizenship & Immigration Service (CIS) on December 6, 2004. Based upon said filing, CIS on December 22, 2004 requested the National Name Check Program Section of the Federal Bureau of Investigation (FBI) to conduct a security review (name check) of Mr. Zaslavskiy. Subsequently, Mr. Zaslavskiy was interviewed by Immigration Officer Fields on October 7, 2005 and successfully passed the English language and history and government tests on the same day. To this day, over 26 months after said name check request and over 17 months after the interview, Mr. Zaslavskiy still awaits a decision on his application. Certainly, more than 120 days have passed since the interview in this matter, thus vesting jurisdiction with this court under 8 U.S.C. § 1447.

3. Plaintiff is eligible to have his Application adjudicated.

4. Defendants are charged by law with the statutory obligation to adjudicate this Application.

5. Venue is proper under 28 USC §1391(e) because the Plaintiff resides in this district and no real property is involved in this action.

PARTIES

6. Aleksandr Zaslavskiy, the Plaintiff, is a native and citizen of Russia. He has been a Lawful Permanent Resident of the United States since February 13, 2000. Plaintiff resides in New York, New York.

7. Defendant Alberto R. Gonzales is the Attorney General of the United States of America and is sued herein in his official capacity.

8. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security (DHS). As of March 1, 2003, DHS is the agency responsible for implementing the Immigration and Nationality Act. Defendant Chertoff is sued in his official capacity.

9. Defendant Emilio Gonzalez is the Director of USCIS, and is sued herein in his official capacity. Within DHS, the United States Citizenship and Immigration Services (USCIS), is responsible for implementing the provisions under which lawful permanent residents can be naturalized and become United States Citizens.

10. Defendant Andrea Quarantillo is the New York District Director of USCIS and is sued herein in her official capacity. Defendant Quarantillo has been delegated authority to control all activities within the New York District, including the authority to grant or deny naturalizations applications.

FACTS

11. Plaintiff, Mr. Zaslavskiy, received his Lawful Permanent Resident Status on February 13, 2000.

12. Plaintiff became statutorily eligible to file a Form N-400, Application for Naturalization, on November 13, 2004, four years and nine months after the grant of his Permanent Resident Status.

13. Plaintiff filed his Form N-400, Application for Naturalization, with USCIS' Vermont Service Center on December 6, 2004. (See Exh. A, Receipt Notice dated December 13, 2004, for N400 Application.)

14. Based upon said filing, on December 22, 2004, USCIS requested Defendant, the FBI, to conduct a name check for Plaintiff's application.

15. Plaintiff was interviewed by Immigration Officer Fields on October 7, 2005 and successfully passed the English language and history and government tests. (See Exh. B, Form N-652, Naturalization Interview, for proof of successful passage of both tests).

16. Plaintiff has on numerous occasions attempted to inquire with Defendants about the status of his application. Plaintiff has been told by Defendants during the course of these follow ups that no decision has been made on his application because USCIS is still awaiting the results of an FBI security check.

17. After 120 days had elapsed from the time of his naturalization interview, on February 10, 2006 Plaintiff contacted the office of Senator Hillary Rodham Clinton requesting assistance determining the status of his application. Senator Clinton's office contacted Michael A. Cannon, Section Chief, and National Name Check Program Section of the FBI and was informed on May 24, 2006 that Plaintiff's application was still pending.

18. Plaintiff also inquired into the status of his application on March 27 2006 with USCIS, five months after his interview, and was informed that USCIS was still awaiting the results of his name check. (See Exh. C, Letter dated March 27, 2006, from Julissa Pabon, Immigration Information Officer, USCIS.)

19. Plaintiff again followed up with Defendant CIS on October 5, 2006 and was told by Information Office Hadera that his application was still pending because the results of his FBI name check had not yet been received by USCIS. (See Exh. D, Letter dated October 5, 2006, from Immigration Officer G. Hadera, USCIS.)

20. On February 27, 2007 Plaintiff again inquired with Defendant USCIS about the status of his case and filed a letter with Dennis Bunce, the Section Chief of the

Naturalization Section of USCIS's New York District Office, requesting immediate attention to his application. USCIS's response to this recent inquiry was the same – Plaintiff's name check has not yet been received by USCIS. (See Exh. E, Letter dated February 27, 2007, from Immigration Officer C. Hernandez, USCIS.)

21. Upon information and belief, a person from the name check office of the FBI contacted Plaintiff's attorneys on April 6, 2007, to inform them that Plaintiff's name check has been completed.

22. Plaintiff was fingerprinted again on April 11, 2007. (See Exh. F, Fingerprint notice dated 3/22/07.)

23. Plaintiff's mother, Darina Zaslavskaya (A#071077359/Naturalization Certificate #29011710); Step-father, Yuriy Kormnov (A#071077360/Naturalization Certificate #29011711); and Brother, Ilya Zaslavskiy (A#071077362/Naturalization Certificate #29250787), upon information and belief, filed their N-400 applications on or around the same date as Plaintiff. Upon information and belief, all of Plaintiff's family members who have applied for naturalization have been naturalized.

24. To date, Plaintiff has not received any decision on his application.

RELIEF REQUESTED

25. Defendants have willfully and unreasonably delayed and refused to adjudicate the Application, thereby depriving the Plaintiff of the benefit of becoming a Naturalized U.S. Citizen.

26. Defendants owe Plaintiff a duty to adjudicate the Petition and have unreasonably failed to perform that duty.

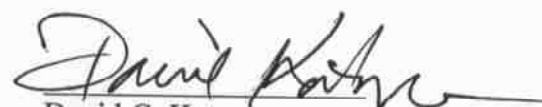
27. Plaintiff has exhausted any administrative remedies that may exist.

WHEREFORE, Plaintiff prays that the Court:

1. Assume jurisdiction over the case and naturalize the Plaintiff under the terms of 8 USC § 1447(b);
2. Grant Plaintiff reasonable attorney's fees and costs and expenses for this action;
3. Grant such other and further relief as this Court deems proper under the circumstances.
4. In the alternative, Plaintiff prays this Honorable Court to compel Defendants and those acting under them to perform their duty to adjudicate the Petition.

Respectfully submitted this __ day of April, 2007.

Respectfully submitted



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